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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/583,479	05/31/2000	David C. Fallside	GB9-2000-0066-US1	3213

25259 7590 01/23/2004

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EXAMINER
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CUFF, MICHAEL A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 15

Application Number: 09/583,479  
Filing Date: May 31, 2000  
Appellant(s): FALLSIDE ET AL.

**MAILED**

JAN 23 2004

**GROUP 3609**

\_\_\_\_\_  
Mark D. Simpson  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 11/12/03.

**(1) Real Party in Interest**

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows: Appellant asserts that the issue is that "the cited prior art fails to teach or suggest the use of pub/sub technology as the term is known in the field, and as it is described in the specification". The examiner believes that the issue is if the Walker et al. reference anticipates the claim limitations which is the basis for the examiners rejection under 35 USC 102(e).

**(7) *Grouping of Claims***

The examiner agrees with appellant that claims 1-13 stand or fall together.

**(8) Claims Appaled**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-13 rejected under 35 U.S.C. 102(e). This rejection is set forth in prior Office Action, Paper No. 8.

**(11) Response to Argument**

Appellant asserts "Walker does not show in his step 1304 cited by the Examiner, any 'subscribing' to a topic." Please read final rejection. The examiner states that seller subscribe to predefined preferences. More details are provided in the mapping of claim 1. The examiner is considering the sellers' registration to be subscribing.

Appellant asserts "the examiner's citation of step 1344 of Walker et al. does not show aggregating the request from multiple buyers." Please read final rejection. The examiner does not cite step 1344 as aggregation. The examiner does cite, in the final rejection, figures 13A-14B, which are titled "CPO aggregation process" and "Aggregate CPO monitoring process". The examiner also cites step 1318 as showing aggregating. A CPO is a conditional purchase offer (buyers).

Appellant asserts "the examiner's citation of step 1410 of Walker et al. does not serve to teach or suggest a step of publishing. Please read final rejection. The examiner does not cite the assertion. The examiner states, in the rejection, that the central controller 200 publishes aggregate CPOs.

**Examiner's Notes**

The examiner believes that Appellant is arguing from the basis of the raw notes in the Walker et al. reference and not from the rejections made in the case. The examiner believes that a clear prima facie case has been made in the rejection. A mapping of the elements in claim 1 has been provided to ensure clarity.

While it has not been argued, the examiner has noticed an oversight in the rejection. The examiner has cited step 1344 as the selecting responsive to the aggregating. It was suppose to be finalizing of the process shown in figure 14 (step 1405 for selecting) instead of the process shown in figure 13. The sentence, in the rejection, should read "step 1405 places a group order in response to the aggregation." This mistake is merely an oversight and not new grounds for rejection. It has not been argued nor changed the prosecution.

### Claim 1 Mapping

#### Claim element

#### Reference citation

Publishing, by a publisher, information  
about a quantity of a material;

Central Controller 200  
(column 6, lines 48-54).

Subscribing, via a subscriber, to a  
topic comprising said information;  
Receiving, via subscriber, said  
information;

Sellers are registered (subscribing) to  
receive information from the CPO  
management system  
(column 9, lines 18-21).

Aggregating, via subscriber, said information  
from at least one of said publisher;

Figures 13A-14B.  
Note that the CPO management is  
considered the "subscriber". The broad  
used of "via" allows this to anticipate.

Responsive to said step of aggregating,  
selecting based on at least one criterion  
a best time to place said group order

Step 1405 which, includes the CPO rule  
evaluation process (selection and  
criterion included). Time and price are  
part of the aggregation conditions.

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IDS, submitted 12/8/03, has been considered. The PTO-1449 is attached.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

*Michael Cuff* 1/22/04

Michael Cuff  
January 22, 2004

Conferees  
Jim Tremmell  
Richard Chilcot

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